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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21807-2019

Reserved on: March 21, 2024

Pronounced on: April 04, 2024

Satwinder SinghPetitioner
Versus
Financial Commissioner (Appeals) Punjab and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Sherry K.Singla, Advocate
for the petitioner.
Mr.Navneet Singh, Sr.DAG, Punjab.
Mr.Naresh Chander, Advocate
for respondent No.4.

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RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing of impugned order, dated 01.04.2019, Annexure P-3, passed by respondent No.1 and order dated 25.02.2019, Annexure P-2, passed by respondent No.2 whereby the well reasoned order, dated 02.03.2016, passed by respondent No.3, Annexure P-1, appointing the petitioner as Lambardar of village Bhanam, Tehsil Nangal, District Roopnagar has been wrongly set aside. It is further prayed that operation and implementation of the impugned orders, dated 01.04.2019 and 25.02.2019, Annexures P-3 and P-2 respectively, be stayed during pendency of the present petition.

Adumbrated facts of the case are that on the death of earlier Lambardar, namely, Shiv Mangal Singh son of Bakshish Singh, of village Bhanam, the process of appointment of new Lambardar was initiated.

Mustari Munadi was conducted to invite the applications. In pursuance of

the same, seven applications were received from the candidates, namely, Satwinder Singh son of Tarsem Singh (petitioner), Jagtar Singh son of Parmod Singh, Parkash Chand son of Poholo Ram, Aman Kumar son of Ram Kishan (respondent No.4), Vishal Saini son of Tarseem Lal, Kuldeep Singh son of Amar Singh and Sanjeev Kumar son of Satpal Singh. Character verifications of all the candidates were got done from the concerned police station. On the assessment of *inter se* merits of these candidates, Naib Tehsildar, Noorpur Bedi, recommended the name of petitioner Satwinder Singh for the appointment of Lambardar and forwarded the same to the Tehsildar, Nangal. Agreeing with the same, Tehsildar forwarded the same alongwith his report, dated 05.08.2015 to Sub Divisional Magistrate, Nangal, who, after hearing all the candidates, agreed with the reports issued by Tehsildar/Naib Tehsildar, Nangal, and forwarded this case alongwith his report, dated, 21.10.2015 to the Collector. On appreciation of *inter se* merits, petitioner-Satwinder Singh was found to be 39 years of age and M.Sc Physics/B.Ed by qualification. Besides this, he owned 2 kanal 8 marla of land in the village. He was found to be having in a good financial condition. On the other hand, respondent No.4-Aman Kumar was found to be 31 years of age and matric by qualification. He claimed to be the grand son of freedom fighter, Shri Amarnath. Besides this, he owned 3 kanal of land in the village. Learned Collector, on the evaluation of *inter se* merits of all the candidates in the fray, found Satwinder Singh, i.e. the petitioner to be the most meritorious and suitable candidate and thus appointed him as a Lambardar of the village vide order dated 02.03.2016. Being aggrieved, respondent No.4-Aman Kumar assailed the same by way of filing appeal

under Section 13 of the Punjab Land Revenue Act, 1887 (for short, 'the Act') before the learned Commissioner, Roopnagar Division, Roopnagar, who after hearing both the sides found the order passed by the Collector to be perverse and thus set aside the same by appointing respondent No.4-Aman Kumar as Lambardar of the village vide his order dated 25.02.2019. Aggrieved by the same, the petitioner filed appeal under Section 13 of the Act before the learned Financial Commissioner. On hearing both the sides, learned Financial Commissioner found no perversity in the order passed by the Commissioner and thus dismissed the appeal filed by the petitioner vide his order dated 01.04.2019. Hence, aggrieved the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on perusing of the inter se merits of both the petitioner and respondent No.4, it is apparent that there is no substantial difference in the age of both these candidates. However, this is an admitted fact that petitioner is much more qualified than respondent No.4. He submits that besides this petitioner was a social worker and had participated in the social welfare work and in the overall merit he was found to be more meritorious candidate by the Collector and thus, finding him more meritorious, the learned Collector rightly appointed him as Lambardar of the village. He submits that as per settled law findings of the Collector, being prime authority in the appointment of Lambardar, can be interfered only in case there is a perversity or grave illegality in the order passed by him. However, there being no perversity, whatsoever, in the order passed by the Collector, learned Appellate and Revisional Court had failed to appreciate the settled

principles of law and thus, have fallen in grave error in setting aside the well reasoned order passed by the Collector. It is submitted that the impugned orders, being totally in violation of the evidence on record and the settled law, deserve to be set aside by restoring the order passed by the Collector. He has relied upon the judicial precedents passed by this Court in **Mam Raj vs Financial Commissioner, Haryana and others** 2015(46) RCR (Civil) 284.

Per contra, counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that petitioner had encroached upon the panchayat land and was running a private school. Besides this, respondent No.4 was younger in age than the petitioner and thus as per law settled, the candidate younger in age should be given preference. He submits that respondent No.4 is the grand son of freedom fighter and as per Rule 15(f) of the Punjab Land Revenue Rules, 1909 (for short, 'the Rules') he was more meritorious as he belongs to the family, which had rendered service to the nation. He further submits that there is no minimal qualification for appointment of the Lambardar. He submits that there being no illegality whatsoever in the orders passed by the learned Commissioner and the learned Financial Commissioner, the petition being without any merit deserves to be dismissed.

Heard.

On hearing the counsel for the parties and perusing the record, it is apparent that on conducting the *mustari munadi*, seven applications including that of petitioner and respondent No.4 were received. On evaluation of inter se merits, the Revenue Authorities recommended the

name of the petitioner for appointment of Lambardar to the Collector. Learned Collector also found the petitioner to be most meritorious and suitable and thus appointed him as Lambardar of the village. However, learned Commissioner set aside the order passed by the Collector by observing that respondent No.4-Aman Kumar was younger in age and was a grand son of a freedom fighter. Besides this, he was running a mobile shop in the village and thus keeping in view his availability also, he was found to be the most meritorious candidate. This order was further upheld by learned Financial Commissioner. The judicial precedent in the case of **Mam Raj (supra)** relied upon by the petitioner is fully applicable to the facts of the present case wherein this Court held as under:-

“6. We are of the opinion that the instant case does not fall under these exceptions and the ground stated by the Commissioner in his order for setting aside the order of the Collector was not justified. The Commissioner cannot re-appraise the evidence and come to the conclusion that in his opinion, other candidate is more suitable. Such a choice exercised by the Collector cannot be said to be perverse.....”

On the comparison of inter se merits, there is no substantial difference in the age of both the candidates, however in the education, the petitioner was much more qualified than respondent No.4. Regarding the allegations of encroachment, there is no specific finding given by the Collector. Petitioner Satwinder Singh was found to have been participated in the social activities and he had been awarded with Raj Yuva Puruskar by the Government of India in the year 2007-08. He was also awarded Shaheed-e-Ajam Sardar Bhagat Singh Raj Yuva Puruskar by Government of Punjab.

Besides this, he was elected as a Member Panchayat in the Panchayat elections held in the year 2008 and was also elected as authorised Panch in the month of July 2011 and thereafter he also served as a Sarpanch upto July 2013. So far as respondent No.4-Aman Kumar is concerned, though he was younger in age than the petitioner but he had the qualification of Matric only. He was running a mobile shop in the village. The learned Collector found that he appended no evidence regarding holding of the land in the village. Though he had contended that he is the grand son of a freedom fighter and as per Rule 15 of the Rules, this is one of the parameters to be taken into consideration, but the learned Collector had to evaluate the overall merits of all the candidates in fray. The suitability or non-suitability of any candidate cannot be arrived at by the Collector on the basis of a single parameter in isolation. As per the law settled, the Collector is the prime authority in considering the suitability of the candidate for the appointment of Lambardar. He is the authority who, not only assess the suitability of the candidates on the basis of the record produced before him but also on the basis of personal interaction with the candidates before him. Thus, the subjective satisfaction of the Collector arrived at cannot be ignored. The learned Collector had taken into consideration the overall merits of both the candidates. The allegations and counter allegations had also been appreciated. Thus, he found the petitioner to be the most suitable and meritorious person for the post of Lambardar. However, the learned Commissioner while adjudicating the appeal had primarily taken into consideration the age of respondent No.4 and he being the grand son of a freedom fighter. Though, there is no minimum qualification prescribed

under the Act for appointment of Lambardar but if a well qualified candidate is available, the Collector has every right to take into consideration the same. In the considered opinion of this Court, the reasons assigned are not sufficient for the Commissioner to reverse the well reasoned order passed by the Collector. Similarly, the learned Financial Commissioner has also fallen in error in ignoring the evidence on record and the law settled.

Hence, in the considered opinion of this Court, the impugned orders passed by the learned Appellate and Revisional Courts are perverse being against the settled law. Hence, both the orders are set aside.

Petition stands allowed.

April 04, 2024

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- 1. Whether speaking/reasoned ?
- 2. Whether reportable ?

(RAJESH BHARDWAJ)

JUDGE

- Yes/No
- Yes/No